

Calendar No. 727

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**H. R. 4878**

## IN THE SENATE OF THE UNITED STATES

JULY 11 (legislative day, JULY 10), 2002

Received; read twice and referred to the Committee on Governmental Affairs

OCTOBER 15, 2002

Reported by Mr. LIEBERMAN, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]**AN ACT**

To provide for estimates and reports of improper payments  
by Federal agencies.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Improper Payments  
5       Information Act of 2002”.

6       **SEC. 2. ESTIMATES OF IMPROPER PAYMENTS AND RE-**  
7       **PORTS ON ACTIONS TO REDUCE THEM.**

8       (a) IDENTIFICATION OF SUSCEPTIBLE PROGRAMS  
9       AND ACTIVITIES.—The head of each agency shall, in ac-

1 cordance with guidance prescribed by the Director of the  
2 Office of Management and Budget, annually review all  
3 programs and activities that it administers and identify  
4 all such programs and activities that may be susceptible  
5 to significant improper payments.

6 (b) ESTIMATION OF IMPROPER PAYMENT.—With re-  
7 spect to each program and activity identified under sub-  
8 section (a), the head of the agency concerned shall—

9 (1) estimate the annual amount of improper  
10 payments; and

11 (2) include that estimate in its annual budget  
12 submission.

13 (c) REPORTS ON ACTIONS TO REDUCE IMPROPER  
14 PAYMENTS.—With respect to any program or activity of  
15 an agency with estimated improper payments under sub-  
16 section (b) that exceed one percent of the total program  
17 or activity budget or \$1,000,000 annually (whichever is  
18 less), the head of the agency shall provide with the esti-  
19 mate under subsection (b) a report on what actions the  
20 agency is taking to reduce the improper payments, includ-  
21 ing—

22 (1) a statement of whether the agency has the  
23 information systems and other infrastructure it  
24 needs in order to reduce improper payments to mini-  
25 mal cost-effective levels;

1           (2) if the agency does not have such systems  
 2           and infrastructure, a description of the resources the  
 3           agency has requested in its budget submission to ob-  
 4           tain the necessary information systems and infra-  
 5           structure; and

6           (3) a description of the steps the agency has  
 7           taken to ensure that agency managers (including the  
 8           agency head) are held accountable for reducing im-  
 9           proper payments.

10          (d) DEFINITIONS.—For the purposes of this section:

11           (1) AGENCY.—The term “agency” means an  
 12           executive agency, as that term is defined in section  
 13           402 of title 31, United States Code.

14           (2) IMPROPER PAYMENT.—The term “improper  
 15           payment”—

16           (A) means any payment that should not  
 17           have been made or that was made in an incor-  
 18           rect amount (including overpayments and un-  
 19           derpayments) under statutory, contractual, ad-  
 20           ministrative, or other legally applicable require-  
 21           ments; and

22           (B) includes any payment to an ineligible  
 23           recipient, any payment for an ineligible service,  
 24           any duplicate payment, payments for services

1 not received, and any payment that does not ac-  
 2 count for credit for applicable discounts.

3 ~~(3) PAYMENT.—The term “payment” means~~  
 4 any payment (including a commitment for future  
 5 payment, such as a loan guarantee) that is—

6 ~~(A) made by a Federal agency, a Federal~~  
 7 ~~contractor, or a governmental or other organi-~~  
 8 ~~zation administering a Federal program or ac-~~  
 9 ~~tivity; and~~

10 ~~(B) derived from Federal funds or other~~  
 11 ~~Federal resources or that will be reimbursed~~  
 12 ~~from Federal funds or other Federal resources.~~

13 ~~(e) APPLICATION.—This section—~~

14 ~~(1) applies with respect to the administration of~~  
 15 ~~programs, and improper payments under programs,~~  
 16 ~~in fiscal years after fiscal year 2002; and~~

17 ~~(2) requires the inclusion of estimates under~~  
 18 ~~subsection (b)(2) only in annual budget submissions~~  
 19 ~~for fiscal years after fiscal year 2003.~~

20 ~~(f) GUIDANCE BY THE OFFICE OF MANAGEMENT~~  
 21 ~~AND BUDGET.—The Director of the Office of Manage-~~  
 22 ~~ment and Budget shall prescribe guidance to implement~~  
 23 ~~the requirements of this section.~~

1 **SECTION 1. SHORT TITLE.**

2       *This Act may be cited as the “Improper Payments In-*  
 3 *formation Act of 2002”.*

4 **SEC. 2. ESTIMATES OF IMPROPER PAYMENTS AND REPORTS**  
 5 **ON ACTIONS TO REDUCE THEM.**

6       (a) *IDENTIFICATION OF SUSCEPTIBLE PROGRAMS AND*  
 7 *ACTIVITIES.*—*The head of each agency shall, in accordance*  
 8 *with guidance prescribed by the Director of the Office of*  
 9 *Management and Budget, annually review all programs*  
 10 *and activities that it administers and identify all such pro-*  
 11 *grams and activities that may be susceptible to significant*  
 12 *improper payments.*

13       (b) *ESTIMATION OF IMPROPER PAYMENT.*—*With re-*  
 14 *spect to each program and activity identified under sub-*  
 15 *section (a), the head of the agency concerned shall—*

16               (1) *estimate the annual amount of improper*  
 17 *payments; and*

18               (2) *submit those estimates to Congress before*  
 19 *March 31 of the following applicable year, with all*  
 20 *agencies using the same method of reporting, as deter-*  
 21 *mined by the Director of the Office of Management*  
 22 *and Budget.*

23       (c) *REPORTS ON ACTIONS TO REDUCE IMPROPER PAY-*  
 24 *MENTS.*—*With respect to any program or activity of an*  
 25 *agency with estimated improper payments under subsection*  
 26 *(b) that exceed \$10,000,000, the head of the agency shall*

1 *provide with the estimate under subsection (b) a report on*  
2 *what actions the agency is taking to reduce the improper*  
3 *payments, including—*

4 *(1) a discussion of the causes of the improper*  
5 *payments identified, actions taken to correct those*  
6 *causes, and results of the actions taken to address*  
7 *those causes;*

8 *(2) a statement of whether the agency has the in-*  
9 *formation systems and other infrastructure it needs*  
10 *in order to reduce improper payments to minimal*  
11 *cost-effective levels;*

12 *(3) if the agency does not have such systems and*  
13 *infrastructure, a description of the resources the agen-*  
14 *cy has requested in its budget submission to obtain*  
15 *the necessary information systems and infrastructure;*  
16 *and*

17 *(4) a description of the steps the agency has*  
18 *taken to ensure that agency managers (including the*  
19 *agency head) are held accountable for reducing im-*  
20 *proper payments.*

21 *(d) DEFINITIONS.—For the purposes of this section:*

22 *(1) AGENCY.—The term “agency” means an ex-*  
23 *ecutive agency, as that term is defined in section 102*  
24 *of title 31, United States Code.*

1           (2) *IMPROPER PAYMENT.*—The term “improper  
2       *payment*”—

3           (A) means any payment that should not  
4       have been made or that was made in an incor-  
5       rect amount (including overpayments and un-  
6       derpayments) under statutory, contractual, ad-  
7       ministrative, or other legally applicable require-  
8       ments; and

9           (B) includes any payment to an ineligible  
10      recipient, any payment for an ineligible service,  
11      any duplicate payment, payments for services  
12      not received, and any payment that does not ac-  
13      count for credit for applicable discounts.

14          (3) *PAYMENT.*—The term “payment” means any  
15      payment (including a commitment for future pay-  
16      ment, such as a loan guarantee) that is—

17          (A) made by a Federal agency, a Federal  
18      contractor, or a governmental or other organiza-  
19      tion administering a Federal program or activ-  
20      ity; and

21          (B) derived from Federal funds or other  
22      Federal resources or that will be reimbursed from  
23      Federal funds or other Federal resources.

24      (e) *APPLICATION.*—This section—

1           (1) *applies with respect to the administration of*  
2           *programs, and improper payments under programs,*  
3           *in fiscal years after fiscal year 2002; and*

4           (2) *requires the inclusion of estimates under sub-*  
5           *section (b)(2) only in annual budget submissions for*  
6           *fiscal years after fiscal year 2003.*

7           (f) *GUIDANCE BY THE OFFICE OF MANAGEMENT AND*  
8           *BUDGET.—Not later than 6 months after the date of enact-*  
9           *ment of this Act, the Director of the Office of Management*  
10          *and Budget shall prescribe guidance to implement the re-*  
11          *quirements of this section.*

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